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September 17, 2008

Ms. Sandra Paske
Secretary to the Commission
Public Service Commission of Wisconsin
P.O. Box 7854
Madison, Wisconsin 53707-7854

RE: Wisconsin Power and Light Company Docket 5-UI-114 Comments

Dear Ms. Paske:

Thank you for the opportunity to provide comments on the Briefing Memorandum issued in Docket 5-UI-114. Included below are Wisconsin Power and Light Company (WPL) comments.

With a few minor clarifications, we believe that the commission staff has accurately summarized WPL's previous comments to questions 1 through 18 as published in Appendix B. The clarifications relate to:

Question 8 – In addition to fairness and transparency, the **frequency of rate changes should be set to minimize rate volatility.**

Question 9 – Performance incentives could be provided if the utility **exceeds** its savings targets.

Question 10 – Given there are energy efficiency savings opportunities for all customer classes, decoupling **could** be applicable to all classes.

Question 12 – Clear, well-defined standards should be **verified by an independent third party.**

WPL offers the following comments on the new questions included in the Briefing Memorandum.

19. Depending on what type of mechanism is proposed by a utility, what type of information should be filed to support the proposed mechanism?

The elements required to support a decoupling proposal could include many of the items listed in Appendix C; statement of objectives to be met, a description of the mechanism, applicable revenue requirements, revenue adjustments and cost of service analysis. Proposal objectives could also include program details, and saving targets. Reporting and evaluation could occur through routine, periodic base rate case reviews. Requirements for customer information and education are reasonable for a decoupling proposal as any new rate requires a customer notification and education process.

20. What criteria should the Commission consider in evaluating any decoupling proposal?

Decoupling proposals should be evaluated as part of the overall base rate case evaluation and determination of just and reasonable rates for the utility. Items proposed in Appendix D which are appropriate considerations for a decoupling mechanism include ease of administration, transparency, and

Public Service Commission of Wisconsin
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comprehensibility. The issue of providing an “off-ramp” should be considered as part of the provision for regulatory review of any approved decoupling mechanism.

The Commission may also want to consider how the mechanism supports the goals of increased conservation and energy efficiency as proposed by the Governor’s Task Force on Global Warming in its final report.

21. Are hearings required every time bills go up to recover lost sales?

No, hearings are not required when bills are adjusted solely because of a decoupling mechanism, because the decoupling mechanism does not change rates to allow recovery of the utility’s increased costs. The decoupling mechanism maintains the utility’s recoverable costs at the previously-authorized level (most likely, as established in a base rate case which includes public notice and hearing), and simply adjusts the billing rates to address changes in usage. As the briefing memorandum notes, Wis. Stat. § 196.20(4)(a) prohibits the inclusion of an “automatic adjustment clause” in an electric utility’s rate schedule, but “automatic adjustment clause” is specifically defined in Wis. Stat. § 196.20(4)(a)1. as a provision which permits the utility to recover *an increase in costs incurred by the utility* without notice and hearing. The briefing memorandum suggests that a more problematic statute may be Wis. Stat. § 196.20(2m), which does not use the term “automatic adjustment clause.” However, in Wisconsin’s Environmental Decade v. PSC, 81 Wis. 2d 344, 260 N.W.2d 712 (1978), the Wisconsin Supreme Court characterized that statute as prohibiting an “expanded adjustment clause” and defining an adjustment clause as a method to *automatically pass on to customers the increases in various costs experienced by the utility*.

Moreover, the Court in that case concluded that the language of the statute was ambiguous, and expressly declined to address whether the more limited automatic fuel adjustment clauses, used in Wisconsin since 1931, violated that statute. Instead, the Court noted that its concern was with the expansion of a formerly narrow adjustment mechanism, in order to permit the utility to recover additional cost increases without the checks and balances of the notice and hearing requirements. Subsequently, the Legislature enacted Wis. Stat. § 196.20(4), which addressed only a subset of the utilities covered by Wis. Stat. § 196.20(2m) – electric public utilities – and barred any automatic adjustment clause, including automatic fuel adjustment clauses. In so doing, the Legislature used a definition of an “automatic adjustment clause” which is virtually identical to that used by the Court in the above-cited case, which covers all public utilities (many of which still utilize fuel cost adjustment mechanisms which operate without requiring separate hearings).

Based on a review of the statutory language, legislative history, and case law, WPL believes that no separate hearings are required to adjust rates in connection with a decoupling mechanism, because the utility is not passing on its *cost increases* to customers without notice and hearing. Presumably the costs that the utility is permitted to recover are set in a base rate case, where customers are given notice and hearings are held. It would seem logical, if not essential, to also address in that rate case the specific decoupling mechanism to be used to modify rates.

22. How frequently should decoupling adjustments be made?

This will depend upon the mechanism and the need for hearings as discussed in question 21. Consideration should be given to managing the number and size of rate changes for customers.

23. At least in the beginning, should an initial decoupling program be done as a pilot program? For what time period?

WPL agrees that pilot program status provides flexibility while the utility and Commission staff gain experience with decoupling mechanisms. Staff’s recommended 3 to 4 year time period is reasonable and should give all parties the opportunity to evaluate the effectiveness of the program in meeting its goals.

24. How often should an approved decoupling plan be reviewed?

If the proposal is a pilot, WPL agrees with staff that periodic reviews to assess program effectiveness are appropriate. After a program is no longer a pilot, evaluation would be part of each base case as with other programs and rate designs.

Please call me at (608) 458-3939 if you have any questions.

Sincerely,

/s/ Cynthia A. Stanisch

Cynthia A. Stanisch
Director Pricing and Regulatory Analysis